IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL MISC. APPLICATION No 3115 of 2003

For Approval and Signature:

Hon'ble MR.JUSTICE P.B.MAJMUDAR

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1. Whether Reporters of Local Papers may be allowed to see the judgment? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

KELINA LAJARSBHAI CHRISTIAN

Versus

STATE OF GUJARAT

Appearance:

MR BK DAVE for Petitioner Nos. 1-2

Mr.R.C. Kodekar, Additional PUBLIC PROSECUTOR, for the Respondent.

CORAM : MR.JUSTICE P.B.MAJMUDAR

Date of decision: 17/06/2003

ORAL JUDGEMENT

Rule returnable today. Mr.R.C. Kodekar, Additional Public Prosecutor, waives service of rule on behalf of the respondent.

With the consent of the parties, the matter is taken up today for hearing.

On behalf of the petitioners, it is argued by Mr.Dave, learned Advocate, that the trial against the petitioners is pending since long and it is not yet over. The petitioners are in custody since 22.11.2001. Even though learned APP has submitted that the trial has commenced since long, the same is still pending and about 15 witnesses are yet to be examined, as, by this stage, 7 witnesses have already been examined by the Prosecution. It is submitted by the learned Advocate for the petitioners that the trial has, in fact, begun as back as in July, 2002 and about one year has passed. He submitted that both the petitioners are students and petitioner No.1 is aged about 21 years and petitioner No.2 is aged about 22 years.

After hearing learned Advocates for both the sides, I am of the opinion that since the trial is not yet over, even though it has commenced in July, 2002, and considering the fact that the petitioners are students, and considering their age and considering the fact that the trial is not likely to be over at least in the near future, as 15 witnesses are yet to be examined, it is a fit case in which the petitioners are required to be released on bail, especially when they are already in custody since November, 2001. Considering the said aspect of the matter, this Application is allowed. Both the petitioners are ordered to be released on bail. The petitioners are directed to execute bail bonds in the sum of Rs.5,000/- (Rupees five thousand only) each. The petitioners are also directed to mark their presence before the Naranpura Police Station on every Monday between 11.00 a.m. and 12.00 noon, till the trial is over.

Rule is accordingly made absolute.

Direct service is permitted.

17th June, 2003 (P.B. Majmudar, J.)

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(apj)